

1 THEODORE J. BOUTROUS JR. (SBN
132099)
2 tboutrous@gibsondunn.com
RICHARD J. DOREN (SBN 124666)
3 rdoren@gibsondunn.com
DANIEL G. SWANSON (SBN 116556)
4 dswanson@gibsondunn.com
JAY P. SRINIVASAN (SBN 181471)
5 jsrinivasan@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
6 333 South Grand Avenue
Los Angeles, CA 90071-3197
7 Telephone: 213.229.7000
Facsimile: 213.229.7520

8 VERONICA S. LEWIS (*pro hac vice*)
9 vlewis@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
10 2100 McKinney Avenue, Suite 1100
Dallas, TX 75201
11 Telephone: 214.698.3100
Facsimile: 214.571.2900

12 MARK A. PERRY (SBN 212532)
13 mperry@gibsondunn.com
CYNTHIA E. RICHMAN (*pro hac vice*)
14 crichman@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
15 1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
16 Telephone: 202.955.8500
Facsimile: 202.467.0539

17 E. JOSHUA ROSENKRANZ (*pro hac vice*)
18 jrosenkranz@orrick.com
**ORRICK, HERRINGTON &
19 SUTCLIFFE LLP**
51 West 52nd Street
20 New York, NY 10019-6142
Telephone: 212.506.5000
21 Facsimile: 212.506.5151

22 WILLIAM F. STUTE (*pro hac vice*)
wstute@orrick.com
23 **ORRICK, HERRINGTON &
SUTCLIFFE LLP**
24 1152 15th Street, N.W.
Washington, DC 20005-1706
25 Telephone: 202.339.8400
Facsimile: 202.339.8500

26 *Attorneys for Apple Inc.*
27
28

PAUL J. RIEHLE (SBN 115199)
paul.riehle@faegredrinker.com
**FAEGRE DRINKER BIDDLE &
REATH LLP**
Four Embarcadero Center, 27th Floor
San Francisco, CA 94111
Telephone: (415) 591-7500
Facsimile: (415) 591-7510

CHRISTINE A. VARNEY (*pro hac vice*)
cvarney@cravath.com
KATHERINE B. FORREST (*pro hac vice*)
kforrest@cravath.com
GARY A. BORNSTEIN (*pro hac vice*)
gbornstein@cravath.com
YONATAN EVEN (*pro hac vice*)
yeven@cravath.com
LAUREN A. MOSKOWITZ (*pro hac vice*)
lmoskowitz@cravath.com
M. BRENT BYARS (*pro hac vice*)
mbyars@cravath.com
CRAVATH, SWAINE & MOORE LLP
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

Attorneys for Epic Games, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 4:20-cv-05640-YGR

**STIPULATION AND [PROPOSED]
ORDER REGARDING DOCUMENT
SUBPOENAS TO NON-PARTIES,
AUTHENTICITY AND SERVICE**

Judge: Hon. Yvonne Gonzalez Rogers

APPLE INC.,

Counterclaimant,

v.

EPIC GAMES, INC.,

Counter-defendant.

Pursuant to the Court’s order during the October 19, 2020 case management conference, Plaintiff and Counter-defendant Epic Games, Inc. (“Epic”) and Defendant and Counterclaimant Apple Inc. (“Apple” and, together with Epic, the “Parties”), by and through their undersigned counsel, hereby agree and stipulate as follows:

Document Subpoenas to Non-Parties. With respect to Fed. R. Civ. P. 45 document subpoenas served in this Action on a non-party, the issuing Party shall request that non-parties simultaneously produce materials to both Epic and Apple. If, notwithstanding such request, the non-party produces the materials to only the issuing Party, the issuing Party shall provide a copy of all materials to the other side within three calendar days after receipt of the materials from the non-party.

-2-

STIPULATION AND [PROPOSED] ORDER RE DOCUMENT SUBPOENAS TO
NON-PARTIES, AUTHENTICITY AND SERVICE

Case No.: 4:20-cv-05640-YGR

Authenticity Presumptions. All documents produced by either Party or by non-parties from the non-parties' files shall be presumed to be authentic within the meaning of Fed. R. Evid. 901. If a Party serves a specific good faith written objection to the authenticity of a particular document, the presumption of authenticity will no longer apply to that document. Any objection to a document's authenticity must be provided with (or prior to) the exchange of objections to trial exhibits. The Parties will promptly meet and confer to attempt to resolve any such objection.

Service. Service of any documents not filed via ECF, including pleadings, discovery requests, subpoenas for testimony or documents, and expert disclosure shall be by email to all attorneys for the receiving Party then appearing on the ECF docket, at the email addresses listed thereon. In the event the volume of served materials is too large for email and requires electronic data transfer by file transfer protocol or a similar technology, or overnight delivery, the serving Party will telephone or email the other side when the materials are sent to provide notice that the materials are being served. For purposes of calculating discovery response times under the Federal Rules of Civil Procedure, electronic delivery shall be treated the same as hand delivery.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: October 22, 2020

CRAVATH, SWAINE & MOORE LLP

Christine Varney
Katherine B. Forrest
Gary A. Bornstein
Yonatan Even
Laurent A. Moskowitz
M. Brent Byars

**FAEGRE DRINKER BIDDLE & REATH
LLP**

Paul J. Riehle

Respectfully submitted,

By: /s/ Gary A. Bornstein
Gary A. Bornstein

Attorneys for Epic Games, Inc.

1 Dated: October 22, 2020

2 **GIBSON, DUNN & CRUTCHER LLP**

3 Theodore J. Boutrous Jr.
4 Richard J. Doren
5 Daniel G. Swanson
6 Mark A. Perry
7 Veronica S. Lewis
8 Cynthia E. Richman
9 Jay P. Srinivasan

6 **ORRICK, HERRINGTON & SUTCLIFFE
LLP**

7 E. Joshua Rosenkranz
8 William F. Stute

9 Respectfully submitted,

10 By: /s/ Cynthia E. Richman
Cynthia E. Richman

11 *Attorneys for Apple Inc.*

12 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

13
14 DATED: _____

15 HON. YVONNE GONZALEZ ROGERS
16 United States District Court Judge

17
18
19 **E-FILING ATTESTATION**

20
21 I, Gary A. Bornstein, am the ECF User whose ID and password are being used to
22 file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the
23 signatories identified above has concurred in this filing.

24 /s/ Gary A. Bornstein

25 Gary A. Bornstein